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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0279]

RIN 1625-AA00

Safety Zone for Fireworks Display, Chesapeake Bay, Prospect Bay;  
Queen Anne's County, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing certain waters of Prospect Bay. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a barge located between Hog Island and Kent Island in Queen Anne's County, MD on July 4, 2015. This safety zone is intended to protect the maritime public in a portion of Prospect Bay.

DATES: This rule is effective from 8:30 p.m. on July 4, 2015 through 10 p.m. on July 5, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0279]. To view documents mentioned in this

preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410-576-2674, e-mail [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

#### A. Regulatory History and Information

On May 5, 2015, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone for Fireworks Display, Chesapeake Bay, Prospect Bay; Queen Anne's County, MD" in the Federal Register (80 FR 25634). We received no comments on the proposed

rule. No public meeting was requested, and none was held. The permanent safety zones listed in the Table to 33 CFR 165.506 do not apply to this event.

Under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, to allow 30 days after publication notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels, and enhancing public and maritime safety.

#### B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 33 CFR 1.05-1 and 160.5; and Department of Homeland Security Delegation No. 0170.1., which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. Fireworks displays are frequently held from locations on or near the navigable waters of the United States. The potential hazards associated with fireworks displays are a safety concern during such events. The purpose of this rule is to promote public and maritime safety during a fireworks display, and to protect mariners transiting the area from the potential hazards associated with a fireworks display, such as

the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is needed to ensure safety on the waterway before, during and after the scheduled event.

#### C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held. Accordingly, the regulatory text mirrors the proposed text published in the NPRM.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

Although this regulation would restrict access to this area, the effect of this proposed rule will not be significant because:

(i) the safety zone will only be in effect from 8:30 p.m. through 10 p.m. on July 4, 2015, and if necessary due to inclement weather, from 8:30 p.m. through 10 p.m. on July 5, 2015, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to certain portions of the Inner Harbor, smaller vessel traffic will be able to transit safely around the safety zone.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate or transit through or within, or anchor in, the safety zone during the enforcement period.

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons stated under paragraph D.1., Regulatory Planning and Review.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any

one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of



power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary safety zone for a fireworks display. The fireworks are launched from navigable waters of the United States and may negatively impact the safety or other interests of waterway users and near shore activities in the event area. The activity includes fireworks launched from barges near the shoreline that generally rely on the use of navigable waters as a safety buffer to protect the public from fireworks fallouts and

premature detonations. This action is necessary to protect persons and property during the project. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05-0279 to read as follows:

§ 165.0279 Safety Zone for Fireworks Display, Chesapeake Bay, Prospect Bay; Queen Anne's County, MD.

(a) Location. The following area is a safety zone: (1) all waters of Prospect Bay, within a 1,000 feet radius of a

fireworks discharge barge in approximate position latitude 39°57'49.8" N, longitude 076°14'58.5" W, located between Hog Island and Kent Island in Queen Anne's County, MD. All coordinates refer to datum NAD 1983.

(b) Regulations. The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05.0279.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as

directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed as directed while within the zone.

(4) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(c) Definitions. As used in this section:

Captain of the Port Baltimore means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(d) Enforcement period. This section will be enforced from 8:30 p.m. through 10 p.m. on July 4, 2015, and if necessary due to inclement weather, from 8:30 p.m. through 10 p.m. on July 5, 2015.

Dated: June 12, 2015

Kevin C. Kiefer  
Captain, U.S. Coast Guard  
Captain of the Port Baltimore.

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